



One Riverwood Drive
Moncks Corner, SC 29461-2901
(843) 761-8000
P.O. Box 2946101
Moncks Corner, SC 29461-6101

VIA EMAIL

November 30, 2007

Ms. Amy M. Bennett
Water Quality Standards Coordinator
Bureau of Water
South Carolina Department of Health
and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

Subject: Proposed Amendments of R.61-68, Water Classifications and Standards

Dear Ms. Bennett:

Santee Cooper is South Carolina's state owned electric and water utility. Our mission is to be the State's leading resource for improving the quality of life for the people of South Carolina, and we play a vital role in the state's economic well being and development.

We are the source of electric power for approximately two million (2,000,000) South Carolinians either by direct service or through the state's network of cooperatives located throughout the state's 46 counties. Through the Santee Cooper Regional Water System, we supply drinking water to four Low Country water systems serving over one-hundred and twenty-five thousand (125,000) customers. We have been heavily involved in the development of the Lake Marion Regional Water Agency and are on schedule to begin operation of the new water plant in April 2008 (see attached press release).

As a stakeholder, Santee Cooper appreciates being a part of and participating in the triennial review process of the subject regulations. We commend the Department for conducting a very open and extensive review process with all interested parties, from the initial Notice of Drafting in January 2007 through the October publication of the proposed amendments. The Department has been receptive and responsive to the comments and concerns of all participants.

Although several of our concerns have been resolved through this process, we find some areas of the proposed regulations to still be troublesome. We fully support the comments presented by the Chamber of Commerce's Technical Committee dated November 22, 2007. Specifically, we believe that South Carolina should not adopt any federally recommended water quality standard without a detailed review of its derivation and applicability to South Carolina's surface and/or ground waters. In addition, we feel the

need to expand on concerns regarding the Source Water Protection aspects of the proposed amendments.

In this regard, Santee Cooper is in a unique position. Some of our objectives in our Strategic Plan to fulfill our mission noted above include being committed to being the lowest cost producer and distributor of reliable energy, water and other essential services, and being committed to protecting our environment. We operate 10 electrical generating facilities and a growing number of landfill gas and solar powered electric generating installations, along with a one-third ownership of the V.C. Summer Nuclear Station. Santee Cooper operates and maintains both Lakes Marion and Moultrie, and is involved in providing safe and high quality drinking water from these lakes for growing regional areas. Thus we have keen interest in protection of our water resources, as well as ensuring proper water quality of the water used in our production of energy and that used by new and expanding industry and other economic developments.

In consideration of all of the above, Santee Cooper is of the opinion that elements of the Source Water Protection Program developed under the Safe Drinking Water Act should not be a part of the subject Water Quality Standards, which were developed and are required to be regularly updated under the Clean Water Act.

The Source Water Protection Program is not Intended to be a Regulatory Program

Congressional Amendments to the Safe Drinking Water Act (SDWA) in 1996 required states to develop and implement Source Water Assessment Programs (SWAP's). The Source Water Protection assessment program was required to: (1) delineate the boundaries of the areas providing source waters for public water systems, and (2) identify (to the extent practicable) the origins of regulated and certain unregulated contaminants in the delineated area to determine the susceptibility of public water systems to such contaminants. Local governments and/or drinking water providers could then use these assessments to develop local, voluntary protection programs for their water sources. The Amendments are clear that the **SWAP's purpose** is to facilitate the local development of **voluntary, incentive-based partnerships** among owners and operators of community water systems, governments, and other persons in source water areas. Further, Congress states specifically in the Amendments under "Statutory Construction", that *"Nothing in this section – "(1) (A)" creates or conveys new authority to a State, political subdivision, or community water system for any new regulatory measure"*.

DHEC's SWAP, entitled **South Carolina Source Water Assessment & Protection Program**, was developed with a great deal of public participation including the development of a Technical and Citizens Advisory Committee. This Committee was made up of over 35 representatives from diverse backgrounds and met on at least three (3) occasions. In addition to the Committee's input, a series of seven (7) public forums, which were widely advertised, were held across the state in August, 1998 as the plan was being formulated. After a 30 day public review period, the Plan was submitted to EPA in February 1999 and was approved on November 6, 1999. Subsequently, DHEC provided Source Water Assessments (SWAs) to all federally defined Public Water Systems

(PWSs) in the State. The transmittal letter for these SWAs also stated that development of Source Water Protection Plans (SWPPs) for PWSs was voluntary.

It is notable that EPA's approval letter commended DHEC's effort and encouraged "...the state to facilitate drinking water source protection at the local level". The fact that the program is intended to be local and voluntary is discussed in the Plan itself in Section 1.3, Introduction to Source Water Protection, and in Section 5 that deals with the Plan's implementation.

South Carolina's Source Water Protection Program is probably one of the most extensive and wide reaching programs in the Nation, due to the tremendous size of the watersheds it defines as Source Water Protection Areas (SWPAs). This however, creates tremendous problems when these large protection areas are included in the Water Quality Standards, applying more stringent standards for permitted point source dischargers within and upstream of the Protection Areas, which may include an entire watershed. If an intake is located on any part of a reservoir, the entire reservoir and all sub watersheds adjoining the reservoir, along with the upstream surface water flow systems within a 24-hour travel time to the reservoir are included in the primary SWPA. Even if only a small part of an upstream surface water flow system is within the 24-hour travel distance, its entire sub watershed and all of its streams, tributaries, and reservoirs are included in the primary SWPA, thus affecting virtually all upstream discharges.

The way South Carolina is defining the SWPAs is too far reaching to be considered an appropriate avenue for use in developing NPDES Permit limitations. South Carolina's Source Water Protection Plan would not have had the support and far-reaching defining of SWPAs it has, had there been any hint of additional regulatory and/or unfunded mandates, such as applying more stringent water quality standards and the subsequent more restrictive NPDES Permits within and upstream of the SWPAs.

The Source Water Protection Program Should Not Be Directed Toward NPDES Permitted Point Sources

The subject regulations currently have a reference to Source Water Protection Areas in Section E.14 (c) (5). Procedures internal to the Department in development of NPDES permits have evolved and changed over the last few years as to application of this aspect of the subject regulations. Consequently, permittees have had difficulty and confusion in predicting or understanding how this would or may affect their permits.

The Water Quality Standards deal specifically with surface water quality on a state-wide basis, and are primarily directed to all point source discharges into waters of the state. These regulations provide the basis through which the discharge of wastewater into any waters of the state is denied, or granted and controlled, through a public permitting process. These sources should not be subjected to further compounding control and restrictions under the name of Source Water Protection.

The state's water quality standards and its NPDES Permitting process is in direct contrast to the Source Water Protection Program, which is to be implemented at the local level to develop and implement appropriate and effective management strategies to improve and protect local drinking water sources. Approaches could include public involvement and education, potential contaminant source control strategies, and emergency planning. Examples of potential contaminant source control could be identifying and rectifying failing septic tanks and agricultural storm water runoff problems; localized problems that are due to local or site-specific conditions or practices that could escape federal or state oversight for varying reasons. Thus the two programs are aimed at different problems and at different levels, and as such, they should be separate.

The inclusion of Source Water Protection provisions within the Water Quality Standards results in overlapping programs and a compounding effect through the water quality regulations by imposing further restrictions on NPDES point sources. Resulting restrictions are costly while the benefits are not likely measurable.

At this point in time, more water quality improvements from non-point sources are needed than from the already heavily regulated point sources. Also note that cost-sharing funds are now available for these local groups to implement their SWPPs. Several water bodies in the state have been removed from the Section 303 list through this program, providing measurable improvements in water quality.

Application of a Drinking Water Protection Program to the Water Classifications and Standards Regulation is Inappropriate

The subject regulations classify all surface waters of the state. There are 4 classifications for non-salt waters, those being Outstanding National Resource Waters, Outstanding Resource Waters, Trout Waters, with all other freshwaters being classified simply as "Freshwaters". No point source discharges are allowed in either of the Outstanding Classifications, but are allowable under certain restrictions and limitations in Trout Waters and Freshwaters, which constitute the vast majority of the state's surface waters.

The subject standards define these two prominent classifications as "...suitable for *primary and secondary contact recreation and as a source of drinking water after conventional treatment* (emphasis added) in accordance with the requirements of the Department." Thus the subject standards, by definition, do not expect, or attempt to make freshwaters suitable for use as drinking water sources without conventional treatment in accordance with the Department's drinking water standards, which are whole and separate regulations promulgated under the Safe Drinking Water Act. To hold Source Waters to a higher standard within the same regulation seems to conflict with and alter the above quoted long established classification definition.

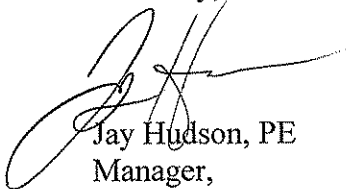
The Water Quality Standards already contain criteria for protection of human health. These criteria provide standards for human consumption of water and organisms, organisms only, along with the Maximum Contaminate Levels allowed in drinking water

research information become available. Thus "Source Waters" are already protected and the existing provisions provide for criteria adjustments as warranted.

We believe that drinking water should be regulated under the Safe Drinking Water Act and surface water should be regulated under the Clean Water Act. To impose or combine one with the other leads to complications and confusion as demonstrated during the drafting of the proposed amendments. Santee Cooper therefore recommends that all references to Source Water Protection be stricken from the proposed amendments.

We appreciate your consideration of these comments. Please feel free to contact Mike Harrelson at extension 5190 should you have any questions.

Sincerely,



Jay Hudson, PE
Manager,
Environmental Management



JAH:SWJ:MEH:dss

Attachment

File No. A01-50000

bcc: w/o attachment
R.M. Singletary (M606)

i:/92200/Regulation Review/Water Quality Standards